

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**ELZIE TURNER,**  
*Plaintiff*

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v.

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**GEICO ADVANTAGE INSURANCE  
COMPANY,**  
*Defendant*

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Case No. \_\_\_\_\_

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**NOTICE OF REMOVAL**

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COMES NOW Defendant GEICO Advantage Insurance Company (“GEICO” or “Defendant”) and submits the following Notice of Removal pursuant to Title 28, sections 1332, 1441, and 1446 of the United States Code and Local Rule CV-81. As grounds for this removal, Defendant states as follows:

**THE STATE COURT ACTION**

1. Plaintiff Elzie Turner (hereafter “Plaintiff”) commenced an action against Defendant GEICO Advantage Insurance Company in the County Court at Law No. 2 of Gregg County, Texas, Cause No. 2017-1492-CCL2, on or around August 4, 2017. In his Original Petition, (“Petition”),<sup>1</sup> Plaintiff alleges that he was injured as the result of an automobile accident that occurred in Smith County, Texas on or about June 28, 2015, which was caused by an alleged unknown uninsured motorist who rear-ended Plaintiff. *See* Petition (Exhibit A-1) at IV. Plaintiff alleges that at the time of the accident in question, he was insured under a policy issued by Defendant and that under such policy he was insured for damages and injuries caused by the negligence of the alleged uninsured motorist. *See* Petition (Exhibit A-1) at VI. Plaintiff alleges

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<sup>1</sup> A copy of the Original Petition is included with this Notice of Removal as Exhibit A-1.

that, in connection with the accident, he is entitled to the payment of Uninsured Motorist (“UM”) coverage benefits under the GEICO insurance policy at issue. *Id.*

2. In his Petition, Plaintiff specifically seeks monetary relief from GEICO of more than \$200,000.00 but not more than \$1,000,000.00. *See* Petition (Exhibit A-1) at III. Plaintiff seeks the following damages: past and future medical expenses; past and future physical pain and mental anguish; past and future disfigurement; past and future physical impairment; loss of income; loss of future earning capacity; prejudgment and post-judgment interest; and attorneys’ fees and costs. *Id.* at 5.

3. On or about October 5, 2017, GEICO filed its Original Answer to Plaintiff’s Original Petition, which included its specific denials and affirmative defenses. *See* GEICO’s Special Exceptions, Verified Denials and Original Answer to Plaintiff’s Original Petition, included with this Notice of Removal as Exhibit A-2.

4. The case is currently pending in the County Court at Law No. 2 of Gregg County, Texas. Pursuant to Local Rule CV-81, a true and correct copy of all pleadings, motions, and other papers filed in the County Court at Law No. 2 of Gregg County, Texas are included as attachments with this Notice of Removal, along with an index identifying same. *See* Exhibit A.

## **JURISDICTION**

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332(a) and §1441(a) because the parties are citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

6. Diversity: According to the Petition, Plaintiff is a resident of the State of Texas. *See* Petition (Exhibit A-1) at II. Upon further information and belief, Plaintiff is a citizen of the State of Texas. Defendant GEICO is a citizen of Nebraska because it is a Nebraska corporation

with its principal place of business in Nebraska. Accordingly, 28 U.S.C. §1332(a) of the United States Code allows this Court to exercise jurisdiction over this action.

7. Amount in Controversy: The amount in controversy is in excess of \$75,000.00.

In his Petition, Plaintiff specifically seeks monetary relief from GEICO of more than \$200,000.00 but not more than \$1,000,000.00. *See* Petition (Exhibit A-1) at III. Therefore, on the face of the Petition, the amount in controversy exceeds \$75,000.00. *See* 28 U.S.C. § 1446(c)(2).

8. Because this civil action only involves citizens of different states and the amount in controversy exceeds \$75,000.00, this Court has original jurisdiction pursuant to 28 U.S.C. §1332(a) and removal is proper under 28 U.S.C. §1441.

#### **PROCEDURAL REQUIREMENTS**

9. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81 of the U.S. District Court for the Eastern District of Texas, the following exhibits are attached and indexed:

Exhibit A: Index of Documents Filed in the State Court Action

Exhibit B: Civil Cover Sheet

Exhibit C: Supplemental Civil Cover Sheet

Exhibit D: Certificate of Interested Parties

10. Pursuant to Title 28 section 1446(b) of the United States Code, removal of this matter has been timely effectuated within thirty days after the receipt by GEICO, through service or otherwise, of a copy of the pleading or other paper setting forth the claim for relief upon which such action or proceeding against GEICO is based. GEICO was served with a copy of Plaintiff's Original Petition on September 13, 2017. This Notice of Removal is being filed on October 13, 2017, which is within 30 days of such receipt.

11. Pursuant to 28 U.S.C. § 1446(a), all pleadings, process, orders and all other filings in the state court action are attached to this Notice.

12. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice of Removal will be given to all adverse parties promptly after the filing of same.

13. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of the Notice of Removal will be filed with the County Court at Law No. 2 of Gregg County, Texas promptly after filing of same.

14. Plaintiff has not made a jury demand.

#### **SERVICE**

15. Copies of this Notice of Removal are being served upon all parties to this action. Notice of this removal is also being filed with the County Court at Law No. 2 of Gregg County, Texas.

Respectfully submitted this 13th day of October 2017.

Respectfully submitted,

By: /s/ Stacy Thompson

Meloney Perry  
State Bar No. 00790424  
Stacy Thompson  
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**ATTORNEYS FOR DEFENDANT  
GEICO ADVANTAGE INSURANCE  
COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record on the 13th day of October 2017 in accordance with the FEDERAL RULES OF CIVIL PROCEDURE:

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/s/ Stacy Thompson

Stacy Thompson

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